

IN THE SENATE OF THE UNITED STATES.

MAY 26, 1896.—Ordered to be printed.

Mr. PALMER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 539.]

The Committee on Military Affairs, to whom was referred Senate bill 539, submit the following report:

This bill provides that, in accordance with the findings of the Court of Claims—

The Secretary of the Treasury be, and he is hereby, authorized and required to pay to John A. Lynch, the sum of two thousand four hundred and sixty-six dollars and forty-nine cents, in full and complete satisfaction for services rendered and expenses incurred and defrayed by him, the said John A. Lynch, to and for the United States at Cincinnati, in the State of Ohio, in the years eighteen hundred and sixty-one and eighteen hundred and sixty-two.

A similar bill was reported favorably by your committee during the first session of the Fifty-second Congress, with the amendment that the amount be reduced to \$1,137.96, which report of the committee is hereto attached and adopted as part of this report.

As amended, the passage of the bill is recommended.

[Senate Report, Fifty-second Congress, first session.]

As the purport of the bill is to provide for the payment of a certain sum of money supposed to be found by the Court of Claims to be due to him, the committee have done nothing more than to ascertain the amount found to be due to the claimant by the Court of Claims and give effect to the actual finding.

A copy of the certified finding of the Court of Claims in this case will be found in Senate Miscellaneous Document No. 127, Fifty-first Congress, first session. (Exhibit A of this report.)

It is certain that the claimant, in the year 1861, under the direct authority of Col. R. M. Corwine, who held some appointment under Gen. John C. Fremont, performed some service for the United States at Cincinnati, Ohio, and that he was employed for a period of eight months. It may be collected from the copy of the proceedings of the Court of Claims, to which reference has been made, that the claimant in that court placed his right to recover upon the ground that for the time mentioned he acted under an appointment as captain and quartermaster, which, though the appointment was by the insufficient authority of General Fremont, he either relied upon as valid or expected that it would afterwards be confirmed, and did in fact discharge all the duties of captain and quartermaster. Whether the Court of Claims adopted that view or not, it is certain that it did not allow him the pay and emoluments of captain and assistant quartermaster, and it may be added that it is not certain that the Court of Claims made him any allowance whatever.

The court, in Paragraph VI of the finding, enumerates certain allowances made by law and the Army Regulations to captains, assistant quartermasters, regularly appointed, which for eight months' service amount to \$2,621.49. But it is added by

the court, "but the claimant by his petition in this court has sought to recover only \$1,262.96 for the same services." Unless it can be inferred from the words last quoted that the Court of Claims intended to allow the claimant the amount of his claim, the record contains no finding in his favor. It is certain that the court did not intend to allow him the item of \$192 for forage for three horses, for he did not own or keep in service three horses, and his claim for the hire of horses was rejected for want of sufficient evidence.

It may be fair to conclude that the Court of Claims intended to make some allowance to the claimant, and if so, then the only possible inference is that the amount intended is that which he claimed in his petition—\$1,262.96. The court finds that he received \$125 on account of clerk hire, which ought to be deducted from the sum allowed:

Allowance	\$1, 262. 96
Deduct for clerk hire.....	125. 00
Balance	1, 137. 96

It is therefore recommended that the bill be amended by striking out the words "two thousand four hundred and sixty-six dollars and forty-nine cents," in the sixth, seventh, and eighth lines of the bill, and the words "one thousand one hundred and thirty-seven dollars and ninety-six cents" be inserted in lieu thereof, and the passage of the bill as amended be recommended.

APPENDIX.

[Senate Mis. Doc. No. 127, Fifty-first Congress, first session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, April 10, 1890.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of the Court of Claims, filed April 7, 1890, in the aforesaid cause, which case was referred to this court by the Committee on Military Affairs of the Senate of the United States under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

The PRESIDENT OF THE SENATE.

[Court of Claims. Congressional case No. 4664. John A. Lynch v. The United States.]

At a Court of Claims held in the city of Washington on the 7th day of April, A. D. 1890, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case was transmitted to the court by the Committee on Military Affairs, United States Senate, on the 8th day of June, 1888. Luther H. Pike, esq., appeared for claimant, and the Attorney-General, by Assistant Attorney-General John B. Cotton, his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case was brought to a hearing on its merits on the 21st day of January, 1890.

I.

At the outbreak of the rebellion, in the year A. D. 1861, the claimant, John A. Lynch, was a citizen of the United States, a resident of the city of Cincinnati, in the State of Ohio, and by profession a lawyer.

In 1861 John C. Frémont, a major-general in the Army of the United States, was assigned to the command of the Department of the West, with headquarters at St. Louis, in the State of Missouri, and was clothed with extraordinary power and authority for recruiting, organizing, and equipping troops for his command in and outside the limits of his department, and for selecting and appointing, and directing the selection and appointment, of such officers and agents as he might deem necessary to assist him in the due execution of the powers he was so clothed with.

II.

General Frémont appointed Richard M. Corwine an officer under him, to wit, judge-advocate, with the rank of major, and sent him to Cincinnati, in the State of Ohio, with directions and authority to there recruit, organize, and equip troops for his command, and to arrange their transportation to his department.

The said R. M. Corwine, as part of his arrangements for recruiting, organizing, and equipping troops for and transporting them to General Frémont's command, induced the claimant to assist him therein, and appointed claimant nominally to the rank of captain, assistant quartermaster, with assurance that upon such appointment he would be duly commissioned the same in the Army of the United States.

III.

The claimant, relying upon this assurance and acting under that appointment from the said Corwine, gave his entire time for a period of eight months in the years A. D. 1861 and 1862 in assisting said Corwine. From the latter part of July, 1861, until on or about the 6th of September of that year he acted both as assistant quartermaster and commissary of subsistence, but from the 6th of September, 1861, to on or about the 31st day of March, A. D. 1862, he acted only as assistant quartermaster, and all the services he so rendered were arduous and valuable to the United States.

The claimant has never been paid anything for the services he so rendered or on account of the expenses he incurred necessarily whilst rendering them and paid out of his own means, such expenses being for rooms, light, and fuel, and attendance thereon, and for clerical assistance, except a sum of \$125, and for transportation.

IV.

The claimant was, on the 26th of November, A. D. 1862, commissioned regularly a captain and assistant quartermaster in the United States Army, but was not given rank to cover the service he had rendered antecedently. As such regularly commissioned officer he served faithfully and efficiently until he was discharged honorably after the suppression of the rebellion, and his accounts, found correct, have been closed in the Treasury Department.

V.

The claimant, by reason of being in active service in the field, was ignorant of and therefore unable to avail himself of the benefit intended for others and himself who had assisted General Frémont by the act of Congress approved March 25, 1862, and by the acts amendatory thereof and supplementary thereto. He was ignorant of the existence of the commission at St. Louis, in the State of Missouri, which, in pursuance of said acts of Congress, was created under and by General Orders of the War Department, No. 64, of 1863, as also of the rules promulgated by the General Orders of the War Department, No. 120, of March 24, 1864, for the payment of claims for such services presented to said commission, and, being so ignorant, he presented no claim to said commission.

VI.

By law and the Army Regulations of 1861, paragraphs 963 and 974, and the Revised Army Regulations of the same year, paragraphs 1068 and 1081, in force from the 31st of July, A. D. 1861, to the 1st day of April, A. D. 1862, had claimant been a regularly commissioned captain, assistant quartermaster in the United States Army, and so stationed and rendering said services at Cincinnati, in the State of Ohio, during said period of time, his army allowances and commutations would have been, as certified to the court by the War Department—each item aggregated—as follows: For pay proper (eight months), \$560; servant's pay, \$103.83; servant's clothing, \$20; subsistence, \$364.50; forage for three horses, if in actual service, \$192; quarters, \$192; quarter's fuel, \$119.16; office, \$240; office fuel, \$30, and by authority for payment for clerk-hire contained in the general appropriation acts for the support of the Army he would have had for one clerk, at \$100 per month, \$800; making a total of \$2,621.49. But the claimant by his petition in this court has sought to recover only \$1,262.96 for the same services.

VII.

The claimant during the eight months he so rendered the services unpaid for did not actually own and keep in service three horses, but in lieu thereof hired horses and vehicles for his transportation which was made actually necessary by the distances apart of the different bodies of troops he had to give attention to and he had constantly to traverse; but the amount of such expenditures has not been shown to the satisfaction of the court.

VIII.

The claimant received \$125 on account of clerk hire during said period of eight months' service, through said R. M. Corwine.

IX.

The claimant was loyal to the Government and cause of the United States throughout the war of the rebellion.

By THE COURT.

Filed April 7, 1890.

A true copy.

Test, this 10th day of April, A. D. 1890.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

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